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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/638,341	08/15/2000	Fang Yi Peng	PGI 40037	2943

7590 10/04/2002  
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EXAMINER	
SALVATORE, LYNDIA	

ART UNIT	PAPER NUMBER
1771	

DATE MAILED: 10/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 09/638,341	Applicant(s) PENG ET AL.	
Examiner Lynda M Salvatore	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's Amendment entered in Paper No. 6 is sufficient to overcome the 112<sup>nd</sup> rejections to claims 4 and 5 set forth in the previous office action. The non-final rejection has been withdrawn as requested for reasons set forth in Interview Summary, Paper No. 5. Specifically, the prior art of record did not properly address the thermally bonded limitation present in claim 1.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for thermally bonded nonwoven polypropylene filaments it does not reasonably provide enablement for a thermally bonded polypropylene filaments. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims. In other words, the scope of claim 1, which could include woven or knit fabrics, is broader than what the specification could enable any person skilled in the art to which it pertains.

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During an interview on June 20<sup>th</sup> 2002 with Applicant's Steve Geimer and Nick Carter, an agreement was reached to further limit the article of claim 1 to a non- woven, however, this limitation was not present in Applicant's amendment.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tetsuya et al., Japanese Patent No. 08-246232 in view of Hulse et al., US 3,454,519.

The Japanese Patent issued to Tetsuya et al., teaches polypropylene heat fused fibers and non-woven fabrics made thereof (Title). Tetsuya et al., teaches adding a fatty acid amide in the amount of .01-3 % weight based on the polypropylene resin (Abstract and Section 0007). Suitable fatty acid amides include erucamide or stearamide (Section 0008). Tetsuya et al., further discloses that the addition of fatty acid amides promotes flexibility of the fabric and improves the tactile feeling (Section 0008).

Tetsuya et al., fails to teach adding a blend of fatty acid amides however, the patent issued to Hulse et al., discloses an improved textile fiber prepared from polypropylene fibers (Column 1, line 19-21). The surface lubrication of the fibers is improved using an isotactic polypropylene resin containing an amount ranging from about .01 to about 1.0% by weight of erucamide (Abstract). Hulse et al. further discloses that durable, self-replenishing, surface

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lubricity can be imparted to a polypropylene fiber or filament by incorporating an amide or a mixture of amides of higher fatty acid into the polypropylene resin feed material (Column 2, lines 60-65). Examples of suitable amides include erucamide, stearamide, and mixtures thereof (Column 2, line 70 and Column 3, lines 1-5). Hulse et al. discloses that the total amount of fatty acid amide used, based on the weight of polypropylene, may vary from .01 to 1% and more preferably from .01 to .3% (Column 3, lines 6-12). Hulse et al. discloses various ways of incorporating the fatty acid amide including melt blending (Column 3, lines 31-35).

Additionally, Hulse et al. states that lubrication permits free motion of the yarn in the fabricated articles which lends to ease in recovery to original dimensions (Column 4, lines 9-13).

The polypropylene fibers of Hulse et al., are suitable for use in fabrics that are knitted or woven, however, non-woven fabrics are also within the scope of the invention (Column 1, lines 16-23 and Column 2, lines 10-12).

Therefore, motivated by the desire to improve tactile feel and fabric flexibility it would have been obvious to one having ordinary skill in the art to use a mixture of fatty acids such as the ones disclosed Hulse et al., in the polypropylene resin composition of Tetsuya et al.

Additionally, it has been held that it is obvious to one of ordinary skill in the art to combine the separately taught prior art ingredients which perform the same function since it is logical that they would produce the same effect and supplement each other. *In re Crockett and Huline* 126 USQP 186

With regard to the specific percentages of each fatty acid used, the combination of the prior art fails to teach having a greater amount of stearamide present than erucamide in the blend, however, it would have been obvious to one having ordinary skill in the art at the time the

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invention was made to optimize the ratio of fatty acid amides to achieve a balance of desirable properties. It has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233


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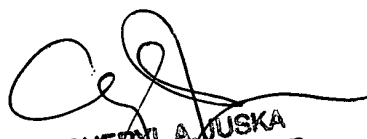
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 703-305-4070. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

ls   
October 1, 2002

  
CHERYL A. JUSKA  
PRIMARY EXAMINER